

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION**

GARRETT EUGENE RAY

PLAINTIFF

VERSUS

CIVIL ACTION NO. 1:10-cv-572-HSO-JMR

ADAM GIBBONS & ALLEN¹ WEATHERFORD

DEFENDANTS

**ORDER ADOPTING REPORT AND RECOMMENDATION TO
GRANT DEFENDANT ALAN WEATHERFORD'S MOTION TO DISMISS**

This cause comes before the Court on the Report and Recommendation [56] of Chief United States Magistrate Judge John M. Roper entered in this cause on May 14, 2012. Magistrate Roper reviewed the pleadings on file and determined that based on the record, Defendant Alan Weatherford's Motion to Dismiss [48] should be granted. To date, no objection to the Report and Recommendation has been filed by Plaintiff.² The Court has thoroughly reviewed the findings in the Report and Recommendation, the record, and the positions advanced in the Motion, and Plaintiff's Response³, and concludes that the Magistrate Judge properly recommended that Defendant's Motion be granted pursuant to FED. R. CIV. P. 12.

Where no party has objected to the Magistrate Judge's Report and Recommendation, the Court need not conduct a de novo review of it. 28 U.S.C. § 636(b)(1) ("a judge of the court shall make a de novo determination of those portions of

¹Pursuant to Plaintiff's Complaint, the docket reflects the name of Defendant as "Allen" Weatherford. The Court notes that the correct spelling is Alan Weatherford, and that spelling is used in this Order.

² The docket reflects that the Report and Recommendation was signed for on May 16, 2012 [57].

³ Plaintiff filed a Response in Opposition to Defendant's Motion [50] on December 1, 2011.

the report or specified proposed findings and recommendations to which objection is made.”). In such cases, the Court need only review the Report and Recommendation and determine whether it is either clearly erroneous or contrary to law. *Longmire v. Guste*, 921 F.2d 620, 623 (5th Cir. 1991) (citing *United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir. 1989)).

Having conducted the required review, the Court finds that the Magistrate Judge’s Report and Recommendation thoroughly considered all issues, and is neither clearly erroneous, nor contrary to law. The Court finds that the Magistrate Judge properly recommended that Defendant Alan Weatherford’s Motion to Dismiss, filed pursuant FED. R. CIV. P. 12, should be granted, and that Defendant Alan Weatherford should be dismissed with prejudice as a Defendant.

IT IS, THEREFORE, ORDERED AND ADJUDGED that, the Report and Recommendation [56] of Chief Magistrate Judge John M. Roper entered on May 14, 2012, is adopted as the finding of this Court.

IT IS, FURTHER, ORDERED AND ADJUDGED that, Defendant Alan Weatherford’s Motion to Dismiss [48] filed November 17, 2011, is **GRANTED**, and Defendant Alan Weatherford is **DISMISSED WITH PREJUDICE**, as a Defendant from the above captioned cause.

SO ORDERED AND ADJUDGED, this the 24th day of July, 2012.

s/ Halil Suleyman Ozerden
HALIL SULEYMAN OZERDEN
UNITED STATES DISTRICT JUDGE